

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 01-885-CR-MIDDLEBROOKS

UNITED STATES OF AMERICA

vs.

**JOSE LUIS BERMUDEZ,
Defendant.**

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**MOTION TO DISMISS INDICTMENT
AGAINST JOSE LUIS BERMUDEZ**

The United States of America, by and through the undersigned Assistant United States Attorney, hereby moves pursuant to Federal Rule of Criminal Procedures 48(a) to dismiss the charges in the Indictment in the above-referenced case against defendant, JOSE LUIS BERMUDEZ. As grounds therefore, the government submits the following.

1. On September 27, 2001, the defendant was charged in an Indictment with knowingly and willfully failing to appear for sentencing, in violation of Title 18, United States Code, Section 3146(a)(1) (Count 1); and contempt in that he failed to report to Pretrial Services, as ordered by the Court, in violation of Title 18, United States Code, Section 401(3) (Count 2).

2. Defendant was arrested in December 2017, when he returned to the United States. He had his initial appearance on December 15, 2017.

3. On April 10, 2018, this Court found that defendant was mentally incompetent and ordered that he be committed to the Bureau of Prisons to determine whether there was a substantial probability that in the foreseeable future he would attain the capacity to permit the proceedings to go forward.

4. On October 12, 2018, in a forensic evaluation from the Federal Medical Center, Butner, North Carolina, the finding was made that defendant's mental condition, namely major vascular neurocognitive disorder, significantly interferes with his rational understanding of relevant proceedings and that there was no substantial likelihood that he would be restored to competency in the foreseeable future.

5. On October 19, 2018, Dr. Kris Lloyd, the forensic psychologist who treated him at Butner sent an email to the undersigned and his attorney advising that defendant had suffered a stroke on October 14, 2018, that he was treated at one of their community hospitals and returned to the facility. According to Dr. Lloyd defendant "has limited movement, incontinence, and has been in bed, speaking little."

6. Based upon these findings it does not appear that defendant will be restored to competence in the foreseeable future.

Accordingly, the United States hereby seeks dismissal of the Indictment against JOSE LUIS BERMUDEZ and an Order of Dismissal for the Court's execution has been attached.

Respectfully submitted,

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UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 29, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

s/Lois Foster-Steers
LOIS FOSTER-STEERS
Assistant United States Attorney